IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 14643 of 2004

Between:

Sri B.Ranga Reddy, S/o Kista Reddy,
H.No.1-6-230/1, Phanigiri Colony, Maruthinagar, L.B.Nagar Municipality,
Ranga Reddy District, Hyderabad

..... PETITIONER

AND

1 State Bank of Hyderabad, Chikkadpally Branch, Opp.Sandhya Theatre
R.T.C. 'X' Road, Hyderabad
2 C.Apparao, S/o Appanna,
H.No.3-5-121/1, L.B.Nagar, Hyderabad
3 Bhongiri Shankar, S/o Late B.Venkatadri,
R/o H.No.3-1-101/6, L.B.Nagar, Hyderabad

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue on Writ, or Order, or direction more in the nature of mandamus directing the 1st respondent not to bring the Petitioners property bearing R/o No.1-6-230/1 in 123 Sq.Yards in S.Nos.17,18,19,42 & 43, in plot No.55 part, situated at Phanigiri Colony, Maruthi Nagar, Kothapeta Village, L.B.Nagar Municipality, Uppal Mandal, R.R.District Hyderabad in pursuance of auction sale notification dated 24-07-2004 issued by First Respondent on 28-08-2004 or any other day in the interest of justice

Counsel for the Petitioner: MR.M.V.R.NARASIMHA CHARYA

Counsel for the Respondents: .None appeared

The Court at the stage of admission made the following Oral Order:

Petitioner states that he purchased certain properties under registered sale deed dated 18.1.2002 from one Bhonagiri Shankar. His grievance is that neither he is a borrower nor the property purchased by the petitioner is a mortgaged property with the respondent-bank. But the bank has issued a public advertisement for auctioning the property in exercise of its rights under the Securitisation & Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short 'the Act') for recovery of secured debts of the bank. According to the petitioner, respondent-bank can recover its dues only by putting to auction the property which is mortgaged by the borrower or is a secured asset with the respondent bank. Therefore, petitioner wants directions to be issued to the respondent-bank not to auction the property which is scheduled for 28.8.2004.

In view of the remedy, which the petitioner statutorily has got of questioning the action of the respondent-bank in appeal under Section 17 of the Act, we do not consider that it is a fit case for interference in exercise of Writ jurisdiction. As a matter of fact, petitioner has to first ask the bank not to proceed ahead with the petitioner's property and in case bank will resist in not doing so, the remedy will be to seek

redressal by filing appeal or further appeal as provided under the provisions of the Act.

With leave and liberty granted to the petitioner to avail of the said remedy, the writ petition is dismissed. No costs.

DEVINDER GUPTA,CJ

DATE: 23rd August, 2004

C.V. RAMULU,J

Note: Furnish c.c. by 24.8.2004

B/o

Pnb

To

1 State Bank of Hyderabad, Chikkadpally Branch, Opp.Sandhya Theatre
R.T.C. 'X' Road, Hyderabad
2 Two C.D. copies